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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/927,925

08/10/2001

Koji Mizobuchi

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FRISHAUF, HOLTZ, GOODMAN & CHICK, PC  
220 Fifth Avenue  
16TH Floor  
NEW YORK, NY 10001-7708

EXAMINER

QUIETT, CARRAMAH J

ART UNIT

PAPER NUMBER

2622

MAIL DATE

DELIVERY MODE

04/24/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/927,925

Applicant(s)

MIZOBUCHI, KOJI

Examiner

Carramah J. Quiett

Art Unit

2622

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 02 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 17-19.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
Please see the attachment.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

*Response to Amendment*

1. The amendment(s), filed on 04/02/2007, have been entered and made of record. Claims 17, 18 and 19 are pending.

*Response to Arguments*

2. Applicant's arguments filed 04/02/2007 have been fully considered but they are not persuasive.

For **claim 17**, the applicant asserts that Kitsugi et al. (U.S. Patent Application Pub. #2005/0185002 – herein referred to as Kitsugi) in view of Fukuta (U.S. Pat. #4,858,031 – herein referred to as Fukuta) does not teach, “...control means for switching a display of the display means when the audio data is being reproduced by the audio data reproducing means such that the image data associated with the audio data is displayed for a predetermined time upon reproducing the audio data, and such that character data representing at least an elapsed reproduction time of the audio data being reproduced is displayed as information on a reproduction status of the audio data for a remaining time that the audio data is reproduced.”

*Respectfully, the examiner disagrees.*

In response to the applicant's arguments regarding claim 17, the examiner asserts that Kitsugi teaches [a] control means (ref. 36) for switching a display of the display means when the audio data is being reproduced by the audio data reproducing means such that the image data associated with the audio data is displayed for a predetermined time upon reproducing the audio data. In figure 9, Kitsugi illustrates a display of a thumbnail image corresponding to a sound information bar. Please read paragraphs [0093]-[0098]. Then, in figure 13, Kitsugi illustrates a flow chart describing the presentation process of figure 12. Particularly in paragraph [0128],

“When the reproduced image consists of only sound data, image data that is displayed immediately before the sound data is displayed continuously until the reproduction of the sound data is complete.” In other words, Kitsugi teaches that the CPU controls (switches) the display by displaying the image data continuously (a predetermined time) until the reproduction of the sound data is complete. Additionally, based on Kitsugi’s teaching in paragraph [0128] the displayed image data is associated with the audio data.

As stated by the examiner in the previous Office Action:

“However, Kitsugi does not expressly disclose such that character data representing at least an elapsed reproduction time of the audio data being reproduced is displayed as information on a reproduction status of the audio data *for a remaining time that the audio data is reproduced.*”

In order to overcome the limitations Kitsugi does not expressly teach, the examiner used Fukuta to teach “a control means for switching a display of the display means when the audio data is being reproduced by the audio data reproducing means *such that* character data representing at least *an elapsed reproduction time* of the audio data being reproduced is displayed as information on a reproduction status of the audio data *for a remaining time* that the audio data is reproduced. In col. 3 lines 46-51, Fukuta teaches that the main controller (fig. 1, ref. 20) supplies signals to a display controller (fig. 1, ref. 23) which drives/controls (*switches*) a display unit (figs. 1, 2, and 6, ref. 24). Then, in col. 9, lines 42-66 of Fukuta, the display elements (*character data*), which indicates elapsed time, are displayed in the case of regenerating mode. During regenerating mode, which is discussed in col. 8, lines 28-61, the display is controlled for a regenerating time according to the audio compression rate. Thereafter, the display is decreased

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stepwise, indicating the *remaining time* of the audio. This modification would allow a user to know the available time for audio reproduction in a readily understandable manner (Fukuta, col. 1, line 67 – col. 2, line 7). Accordingly, the examiner maintains the rejection to claim 17.

On page 8 of the Remarks filed 04/02/2007, the applicant asserts that, “In a similar manner to claim 17, it is respectfully submitted that the cited references also do not disclose, teach or suggest the features of the present invention as recited in independent **claim 18**.” The examiner respectfully disagrees. In a similar manner to claim 17, the examiner respectfully asserts that the cited references do disclose, teach or suggest the features of the present invention as recited in independent claim 18. For the response regarding claim 18, please read the examiners comments regarding claim 17. Accordingly, the examiner maintains the rejection to claim 18.

For **claim 19**, the applicant asserts that, “As explained hereinabove with respect to claim 17, it is respectfully submitted that none of the cited references disclose switching between displaying image data and displaying character data representing at least the elapsed reproduction time of the audio data being reproduced as according to the present invention as recited in independent claim 19.” The examiner respectfully disagrees. The examiner asserts that the cited references disclose switching (controlling) between displaying image data and displaying character data representing at least the elapsed reproduction time of the audio data being reproduced as according to the present invention as recited in independent claim 19. For the response regarding claim 19, please read the examiners comments regarding claim 17. Accordingly, the examiner maintains the rejection to claim 19.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carramah J. Quiett whose telephone number is (571) 272-7316. The examiner can normally be reached on 8:00-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NgocYen Vu can be reached on (571) 272-7320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CJQ  
April 18, 2007



NGOC-YEN VU  
SUPERVISORY PATENT EXAMINER